

12 April 2004

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Re: Proposed Revisions to MCR 6.500 et seq

Notice of proposed revisions regarding motions for relief from judgment, MCR 6.500 et seq, were recently provided in the Michigan Reports advanced sheets, Vol 469, No 5. In response thereto, I relate the following comments.

MCR 6.502(C). Form of Motion. *** Except as otherwise ordered by the court, the combined length of the motion and any memorandum of law in support may not exceed 25 pages double spaced....

The majority of persons who seek relief pursuant to this chapter do so in propria persona and are lay persons. Accordingly, it is respectfully requested that more comprehensive direction be included as to how and when to request permission to exceed page limitations. Specifically, is a separate motion required to exceed the page limit, is such filed prior to the motion for relief from judgment, or is such attached therewith?

MCR 6.508(D)(1)(1)(b). Entitlement to Relief. *** [W]ith regard to a conviction following a trial, the probability of a different result on retrial because of...an irregularity so offensive as to seriously affect the fundamental fairness, integrity, or public reputation of judicial proceedings....

This standard of review appears to create an exceptionally wide path of discretion which would be difficult to appeal -- how can a trial court's interpretation of what constitutes a seriously offensive irregularity be challenged?

MCR 6.508(E). Time Limitation. *** 1-year....

It is appreciated that this chapter is seeking finality more efficiently; however, such is troubling. As noted earlier, persons seeking relief under this chapter most often do so in propria persona and are lay persons; thus, placing them at a disadvantage. The Supreme Court is respectfully invited to consider the burden this limitation will place upon an indigent defendant. Pursuant to MDOC Policy Directive 05.03.115(R), upon request inmates are permitted a minimum of six hours of law library access per week (note, although six hours is the minimum, libraries will not allot additional hours unless there is a verifiable good cause). Thus, in 1-year (conceivably 336 hours) a defendant must learn how to obtain their records, absorb criminal law, identify errors, research prospective errors, and compile such into a comprehensive pleading. This is a steep expectation.

Respectfully submitted,



Karl B. Strunk

cc: file